IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3498 of 1988

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHBHAI RANCHHODBHAI

Versus

BARODA MUNICIPAL CORPORATION

Appearance:

1. Special Civil Application No. 3498 of 1988

MR MUKSEH R. SHAH for Petitioner No. 1

MR PRANAV G DESAI for Respondent No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 11/01/2002

ORAL JUDGEMENT

1. Heard Shri M.R.Shah, learned Counsel appearing for the petitioner and Shri Pranav G. Desai, learned

Counsel appearing for the respondent Corporation.

2. From the averments made in the petition it appears that initially the petitioner was working in Zoo managed by the respondent Corporation since 1974 on Daily wage basis, but only because of the Award passed by the Industrial Court he was made permanent in January, 1980. He came to be appointed on the post of Animal Keeper with effect from 1.1.1979 by appointment order dated 19.1.1980, Annexure : A. According to him the respondent Corporation wanted to change the post of the petitioner and posted him on the post of Mali from the post of Animal Keeper and therefore he had filed this petition in August, 1987, but it was moved only in July 1988 after a period of almost one year on an urgent Note filed by him. When it was placed before the learned Single Judge notice was ordered to be issued and made it returnable on 11.8.1988, thereafter it was adjourned from time to time and ultimately on 23.4.1991 Rule was issued and interim relief was granted to the extent that appointments and/or promotions of any other person as "Animal Keeper" shall be subject to the result of the petition. Thereafter, this matter was placed before another learned Judge and it was adjourned from time to time.

3. Learned Counsel Shri Pranav Desai for the respondent Corporation firstly submitted that this petition is required to be dismissed on the ground of gross delay and latches as the petitioner filed the petition after almost 8 years and no reasonable explanation is offered for the same. He submitted that even on merits he has no case.

4. It is clear from the reply Affidavit that the petitioner has always worked as Mali since his appointment and merely because there was some error in the order which was later on corrected the petitioner can not get the benefit out of it. It is also clear that the pay-scale of both the posts of Mali and Animal Keeper was the same i.e. Rs.775 - 1025.

5. Thus, the petitioner has no case even on merits and on both the grounds i.e. on the ground of delay as well as on merit, the petition is required to be dismissed. Accordingly, it is dismissed. However, there shall be no order as to costs. Rule discharged. Interim relief vacated.

sd/-

Date : January 11, 2002 (B.J.Shethna, J.)

sas